

CHAPTER 145

Municipal Contracts

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CROSS REFERENCES

Contracts - see CHTR. Sec. 42 et seq.

General disqualification - see CHTR. Sec. 86

Disadvantaged and minority business enterprises - see
ADM. Ch. 153

Contract interest - see GEN. OFF. 525.08

145.01 COMPETITIVE CONTRACTS.

Except as provided in Section 145.02, the City shall not enter into a contract for any project, improvement or purchase, other than the purchase of real property, without notice of the opportunity to bid on such project, improvement or purchase first being given by advertisement in a newspaper of general circulation within the City for not less than two nor more than four consecutive weeks.

(Ord. 88-319. Passed 5-31-88.)

145.02 NONCOMPETITIVE CONTRACTS.

The competitive bidding requirement of Section 145.01 shall not apply to the following:

- (a) The estimated cost for the entire project, improvement or purchase is less than the project cost requiring formal bids pursuant to Section 45 of the City's Charter; or
(Ord. 91-294. Passed 7-23-91.)
- (b) The contract entered into involves the performance of personal services of a specialized nature requiring the exercise of peculiar skill and aptitude; or
- (c) A real and present emergency exists as determined by a two-thirds vote of the members of the City Commission which requires a waiver of the bidding requirements; or
- (d) The requirements for competitive bidding are waived by the Ohio Revised Code.
(Ord. 88-319. Passed 5-31-88.)

145.03 BID EXCEEDING ESTIMATE.

The City shall not enter into a contract for which the preparation of a cost

estimate is required with any person whose bid is in excess of one hundred ten percent (110%) of such estimate; however, if bids are taken for a contract which requires the preparation of a cost estimate and which is divisible into separate parts, then the City may enter into a contract for any such part with a person whose bid does not exceed one hundred ten percent (110%) of the estimated cost for such part.
(Ord. 91-294. Passed 7-23-91.)

145.04 AWARD OF CONTRACT.

The City shall not enter into any contract for which competitive bidding is required with any person other than the lowest and best bidder.
(Ord. 88-319. Passed 5-31-88.)

145.05 APPROVAL OF CONTRACTS.

The Director of Law or an attorney authorized by the Director of Law shall approve every contract entered into by the City as to its legal form and correctness. However, the Director of Law or an attorney authorized by the Director of Law may approve the legal form and correctness of preprinted and other standardized contracts prior to their completion and execution by the City.
(Ord. 88-319. Passed 5-31-88.)

145.06 EXPENDITURES EXCEEDING CHARTER LIMITATIONS.

The City shall not enter into any contract involving an expenditure in excess of the threshold dollar amount requiring legislative authorization established in Section 735.05 of the Ohio Revised Code, as presently enacted and as it may be amended from time to time by the General Assembly, with any person unless such expenditure is authorized by ordinance and such contract is approved by the City Commission and the City Manager. This section shall not apply to expenditures for the compensation of persons employed by the City.
(Ord. 91-294. Passed 7-23-91.)

145.07 CENTRALIZED PURCHASING.

No department or division of the City shall obtain any supplies, materials or equipment without submitting a written requisition for such supplies, materials or equipment to the City's Purchasing Agent. The Director of Finance, with the approval of the City Manager, shall prescribe the form and manner with which such purchase requisitions are submitted to the Purchasing Agent. No officer or employee of the City shall expend any funds or enter into, execute or deliver on behalf of the City any purchase order, contract or other obligation upon the City, either oral or written, without the advance written approval of the Purchasing Agent; provided, however, that the City Manager, or the Director of Finance in the City Manager's absence, may dispense with such procedure if a real and actual emergency exists in connection with the proposed purchase. Provided further, however, that this section shall not apply to purchases or contracts directly authorized by the City Commission by appropriate legislation nor remove the duty of the City Manager to approve vouchers for the payment of funds from the City Treasury.
(Ord. 88-319. Passed 5-31-88.)

145.08 UNLAWFUL DISCRIMINATION.

Every contract, for or on behalf of the City, for the purchase by the City of any goods or services, is subject to the following provisions:

- (a) In the hiring of employees for the manufacture, processing or furnishing of such goods or services, the seller and any person or corporation acting on his behalf, shall not, by reason of race, religion, color, ancestry, national

- origin or sex, discriminate against any person who is qualified to perform the work required by such employment.
- (b) The seller and any person or corporation acting on his behalf, shall not, on account of race, religion, color, ancestry, national origin or sex, in any manner intimidate any employee hired for the performance of work in connection with the manufacture, processing or furnishing of any such goods or service.
 - (c) Any seller who violates this section is subject to the following forfeitures:
 - (1) The deduction of one hundred dollars (\$100.00) from the amount payable to the seller by the City under such contract for each person who is discriminated against or intimidated in violation of this section;
 - (2) The cancellation or termination by the City of the seller's contract with the City and the forfeiture of all money due thereunder for a second or subsequent violation of this section.
 - (d) Contracts with the City shall contain a warning that the above described unlawful acts shall subject the seller to the forfeitures set forth in this section.
- (Ord. 88-319. Passed 5-31-88.)

145.09 CERTIFICATION OF CONTRACTS.

(a) Except as otherwise provided in the City Charter, the City shall not make any contract or give any order involving the expenditure of money unless there is attached thereto a certificate of the Finance Director that the amount required to meet the obligation or, in case of a continuing contract to be performed in whole or in part in an ensuing calendar year, the amount required to meet the obligation in the calendar year in which the contract is made, has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances. This certificate need be signed only by the Finance Director. Every such contract made without such a certificate shall be void, and no warrant shall be issued in payment of any amount due thereon. If no certificate is furnished as required, upon receipt by the City Commission of a certificate of the Finance Director stating that there was at the time of the making of such contract or order and at the time of the execution of such certificate a sufficient sum appropriated for the purpose of such contract in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances, the City Commission may authorize the drawing of a warrant in the payment of amounts due upon such contract; provided, that if the amount involved is less than \$100.00, the Finance Director may authorize it to be paid without such affirmation of the City Commission, if such expenditure is otherwise valid.

(b) Upon certification by the Finance Director that a certain sum of money, not in excess of the limit established in Section 42 of the City's Charter, has been lawfully appropriated, authorized, or directed for a certain purpose and is in the treasury or in the process of collection to the credit of a specific line-item appropriation account in a certain fund free from previous and then outstanding obligations or certifications, then for such purpose and from such line-item appropriation account in such fund, over a period not exceeding twelve (12) months and not extending beyond the thirty-first (31st) day of the January immediately following the end of the fiscal year in which the certification is made, expenditures may be made, orders for payments issued, and contracts or obligations calling for or requiring the payment of money made and assumed; provided, that the aggregate sum of money included in and called for by such expenditures, orders, contracts, and obligations shall not exceed the sum so certified. Such certification need be signed only by the Finance Director, but need not be limited to a specific vendor. An itemized statement of obligations incurred and expenditures

made under such certificate shall be rendered to the Finance Director before another such certificate may be issued, and not more than one such certificate shall be outstanding at a time.

(c) In any case in which a contract is entered into upon a per unit basis, the head of the department, for which the contract is made, shall make an estimate of the total amount to become due upon such contract, which estimate shall be certified in writing to the Finance Director. Such contract may be entered into if the appropriation covers such estimate, or so much thereof as may be due during the current calendar year. In such a case, the certificate of the Finance Director based upon the estimate shall be in sufficient compliance with the law requiring a certificate.

(d) Any certificate of the Finance Director attached to a contract shall be binding upon the City as to the facts set forth therein. Upon request of any person receiving an order or entering into a contract with the City, the certificate of the Finance Director shall be attached to such order or contract. "Contract" as used in this section excludes obligations for the compensation of persons employed by the City.

(e) Taxes and other revenue in process of collection or the proceeds to be derived from authorized bonds, notes, or certificates of indebtedness sold and in process of delivery, shall, for the purpose of this section, be deemed in the treasury or in process of collection and in the appropriate fund. This section applies neither to the investment of sinking funds by the trustees of such funds, nor to investments made under sections 731.56 to 731.59 of the Ohio Revised Code.
(Ord. 91-433. Passed 11-5-91.)

145.10 BID PROTESTS.

(a) Bidders whose bids are refused or rejected by the Purchasing Agent and bidders who object to the Purchasing Agent's recommendation of a contract award who desire reconsideration of the Purchasing Agent's acts must submit a written request for reconsideration to the City's Finance Director stating all reasons the bidder objects to the Purchasing Agent's decision.

(b) All requests for reconsideration must be submitted within five (5) days after the Purchasing Agent has posted notice of his recommendation for award. Bidders who fail to submit a petition for reconsideration within the said five (5) day period, waive any objection to the decisions of the Purchasing Agent.
(Ord. 94-203. Passed 5-31-94.)

145.11 CONTRACTS TO PROVIDE LABORATORY SERVICES.

The City Manager is authorized to enter into contracts on behalf of the City to provide laboratory services to public and private entities; provided, that such contracts may be terminated by the City upon thirty-days notice. The contracts shall provide for fees to be paid to the City which shall be set by the City Manager to recover the costs to the City of providing such services. Laboratory services shall be provided only to the extent that the City's Utilities Department has excess capacity to perform laboratory services over and above the services needed for City operations. The City Manager may delegate the authority to execute laboratory service contracts to the City's Utilities Director.
(Ord. 94-302. Passed 8-9-94.)

145.12 SELECTION OF PROFESSIONAL DESIGN FIRMS.

The following procedure shall be used by the City Purchasing Division to select

professional design firms when the expenditure to obtain such services will require authorization by the City Commission as required by Section 145.06 of this Chapter. The term "professional design services" means services within the scope of practice of an architect or

landscape architect registered under Chapter 4703 of the Ohio Revised Code or a professional engineer or surveyor registered under Chapter 4733 of the Ohio Revised Code and the term "professional design firm" means any person legally engaged in rendering professional design services.

- (a) The City will publish a notice in a newspaper of general circulation in the City requesting proposals from professional design firms to provide professional design services for a project. The notice will appear at least once per week for no less than two weeks. In addition to the notice published in a newspaper, the City may, but is not required to, publish a notice in other print or electronic media.
- (b) The notice shall contain a Proposal due date established by the Purchasing Division which shall be no less than four weeks after the first newspaper publication date of the notice; however, the Finance Director may establish a due date less than four weeks after the first newspaper publication if the Finance Director finds that an emergency exists to preserve the public health, safety, property or welfare necessitating the establishment of a due date less than four weeks after the first newspaper publication.
- (c) The Purchasing Division shall prepare a Request for Proposals which shall include a general description of the project, a statement of the professional design services required and the evaluation criteria to be applied by the City which shall include, but is not limited to, the following:
 - (1) the training, licensing and expertise relevant to the proposed work of the proposer's personnel,
 - (2) the proposer's overall staffing,
 - (3) the proposer's proposed project team,
 - (4) the proposer's related experience on similar projects,
 - (5) the proposer's demonstrated ability to work with federal, state, and local governments applicable to the project,
 - (6) client references,
 - (7) knowledge of the proposer's ability to perform the work in a timely and efficient manner,
 - (8) travel time from the proposer's project office to City's project site,
 - (9) the proposer's understanding of the project,
 - (10) proposer's explanation of how the City's needs and concerns will be addressed, including a project timetable, and
 - (11) cost and fee information.
- (d) The Request for Proposals will be sent by the Finance Department to all professional design firms requesting a Request for Proposals as well as to a sufficient number, as determined by the Finance Director in his/her discretion, of professional design firms to provide the City with adequate competition.
- (e) The Purchasing Division will review all Proposals submitted to the City on or before the proposal due date and shall reject any Proposal which does not substantially conform to the requirements of the Request for Proposals, including the requirement that cost and fee information be submitted with the Proposal in a separately-sealed envelope. The Finance Director will designate an Evaluation Committee. Proposals received on or before the proposal due date will be distributed to the Evaluation Committee for evaluation.

- (f) The Evaluation Committee will coordinate with the Community Development Department, to assure compliance with the Chapters 153 and 155 of the City's Codified Ordinances, and with any other departments or agencies necessary to assure that all other requirements and regulations are met.
- (g) The Evaluation Committee shall initially evaluate the Proposals based on technical aspects of the Proposals and professional experience and qualifications and shall rate and rank the Proposals based upon such evaluation. The Evaluation Committee shall have the right to check client references and other entities which may have knowledge of the proposer's qualifications to the extent the Evaluation Committee deems it necessary. If the contract for professional design services is to be funded by Federal and/or State funding, the evaluation and selection process will include consideration of information in the Proposals bearing upon achieving compliance with all governmental requirements related to such funding in the award and performance of the proposed contract for professional design services. After the initial evaluation is completed, the Evaluation Committee will next develop a short-list of proposers based on the initial rating and ranking. The short list will be composed of the highest-ranking proposers (i.e. top ranked, next to top ranked, etc.). At least two (2) proposers will be included on the short list, but the Evaluation Committee need not include more than four (4) proposers.
- (h) After a short list of professional design firms has been selected, the Evaluation Committee shall:
 - (1) open and evaluate the cost and fee information submitted by the short-list proposers,
 - (2) re-rank the short-list Proposals giving consideration to the cost and fee information submitted with the Proposal, and,
 - (3) if deemed necessary by the Evaluation Committee to ensure an accurate understanding of the Proposals, meet with one or more of the short-list proposers to discuss their Proposals.
- (i) The Evaluation Committee shall commence simultaneous negotiations with one or more of the short-list proposers, including the highest ranked short-list proposer (based on professional qualifications, technical merit and cost and fee information). Negotiations may include developing a final written description of the scope of the proposed project contract as well as acceptable costs and fees, if different than the original proposal. In the event none of the short-list proposers are able to agree with the Evaluation Committee on the terms of a contract after the initial round of negotiations, the Evaluation Committee may then proceed to recommence negotiations with any one or more of the short-list proposers even though negotiations with that short-list proposer had been terminated earlier in the initial round of negotiations.
- (j) The Evaluation Committee will review its recommended contract award with the City Manager (or his/her designee) for the City Manager's concurrence in the Evaluation Committee's recommended contract award. Section 145.10 of this Chapter is applicable to this professional design services procurement process. The Purchasing Agent shall give the notice of the proposed contract award recommendation pursuant to Section 145.10 upon obtaining the City Manager's concurrence in recommendation of a contract award.
- (k) If approval by a Federal or State agency is required prior to consideration of the proposed contract award by the City Commission, the City staff's recommendation for the contract award will be forwarded to the appropriate

- agency or agencies for approval.
- (l) Upon receiving all required agency approval(s), the Purchasing Agent will prepare a Request for Commission Action requesting an award of contract by the City Commission.
- (m) If the City Commission awards the recommended contract, the Purchasing Agent shall give written notice of such award to the unsuccessful proposers. If the recommended contract is not awarded, the Evaluation Committee will proceed as directed by City Commission.
(Ord. 96-147. Passed 4-30-96.)

145.13 NONCOMPETITIVE DESIGN CONTRACTS.

The contractor selection requirement of Section 145.12 shall not apply and the City Commission may award a contract for professional design services without any competitive selection process in the following circumstances:

- (a) The estimated cost for the design professional services is less than the project cost requiring formal bids pursuant to Section 45 of the City's Charter; or
- (b) The City Commission finds that that the time required to perform the process described in Section 145.12 will jeopardize the feasibility of a project and selection of a design professional must be expedited to enable the project to be feasible and to promote the public welfare; or
- (c) A real and present emergency exists as determined by a two-thirds vote of the members of the City Commission which requires a waiver of the competitive design professional selection process; or
- (d) The requirements for competitive contractor selection are waived by the Ohio Revised Code.
(Ord. 02-318. Passed 8-6-02.)

145.14 PURCHASING CONTRACTS DURING AN EMERGENCY.

(a) In the event the Mayor determines and declares that the City is in a time of public danger or emergency, as provided for in Section 7 of the City's Charter, during such time of public danger or emergency, a real and present emergency is deemed to exist and no vote of the City Commission will be required to find a real and present emergency, as provided for in Section 145.02 of the Codified Ordinances, and the Mayor, the City Manager, and the Finance Director are each authorized to and may bind the City to contracts without complying with competitive bidding requirements and without obtaining additional legislative approval and authorization by the City Commission for the expenditures related to such contracts.

(b) In the event the Mayor determines and declares that the City is in a time of public danger or emergency, as provided for in Section 7 of the City's Charter, during such time of public danger or emergency, each City Department Director is authorized to approve purchases of necessary equipment, supplies, and services needed to respond to the exigencies of the time of public danger or emergency, up to a maximum aggregate sum of ten thousand dollars (\$10,000.00) of purchases which have not been authorized by the Mayor, City Manager, or Finance Director.
(Ord. 06-382. Passed 10-17-06.)